

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

ROCKWELL AUTOMATION, INC.

§

§

v.

§

§

Case No. 2:15-cv-1543-JRG-RSP

3S-SMART SOFTWARE SOLUTIONS  
GMBH

§

§

**ORDER**

Before the Court is an Emergency Motion to Continue Claim Construction Hearing (Dkt. No. 72) filed by Defendant 3S-Smart Software Solutions, GmbH.

Defendant asks the Court to continue the claim construction hearing presently set for August 24, 2016. Defendant's basis for its request is the fact that Plaintiff Rockwell Automation, Inc. filed a second patent infringement lawsuit against 3S less than two weeks ago, on August 4, 2016 (Case No. 2:16-cv-869). Defendant argues the Court should postpone the claim construction hearing in this case so that a single, consolidated claim construction hearing can be held in both *Rockwell* cases.

Claim construction briefing in this case is complete. (Dkt. Nos. 63, 67, 68). Claim construction briefing has not yet begun in the second *Rockwell* case. Defendant does not argue that the patents asserted in the second *Rockwell* case are related to the patents asserted in this case (*e.g.* by continuation or divisional), nor does Defendant contend that any terms for construction would overlap between the patents in these cases. The only advantage to postponing the claim construction hearing would be to allow the Court to hold one hearing instead of two. This slight benefit is significantly outweighed by the judicial inefficiency that would result from delaying resolution of the fully-briefed claim construction issues in this case.

Accordingly, the Court finds that 3S has not shown good cause to continue the claim construction hearing. The Motion to Continue (Dkt. No. 72) is **DENIED**.

**SIGNED this 16th day of August, 2016.**

  
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ROY S. PAYNE  
UNITED STATES MAGISTRATE JUDGE